

4 FAM 370

FISCAL IRREGULARITIES

(CT:FIN-375; 09-13-2005)
(Office of Origin: RM/FPRA/FPMC)

4 FAM 371 GENERAL POLICY

4 FAM 371.1 Scope and Applicability

(CT:FIN-375; 09-13-2005)
(State Only)
(Applies to Foreign Service and Civil Service Employees)

- a. This subchapter contains policies related to fiscal irregularities of an accountable officer of the Department of State. Additional procedures pertaining to cashier fiscal irregularities are contained in 4 FAH-3 H-397 and 4 FAH-2 H-830.
- b. Each instance of a fiscal irregularity (defined in section 4 FAM 371.3) that involves Civil Service or Foreign Service personnel must be investigated thoroughly, in accordance with the policies in this subchapter, to:
 - (1) Determine and report in detail the circumstances of the irregularity;
 - (2) Achieve restoration of amounts due to the United States; and
 - (3) Prescribe remedial measures to strengthen internal controls.
- c. A fiscal irregularity of an accountable officer from another agency is subject to the policies of that agency and will not be reviewed under the Department of State's fiscal irregularity process.

4 FAM 371.2 Authorities

(CT:FIN-375; 09-13-2005)
(State Only)
(Applies to Foreign Service and Civil Service Employees)

The authorities for this subchapter are contained in:

- (1) 31 U.S.C. 3526, Settlement of accounts;

- (2) Title 7 of the Government Accountability Office (GAO) Policy and Procedures Manual for the Guidance of Federal Agencies, Chapter 8, Settlement Officers;
- (3) 31 U.S.C. 3527, General authority to relieve accountable officials and agents from liability; and
- (4) 31 U.S.C. 3528, Responsibilities and relief from liability of certifying officials.

4 FAM 371.3 Definitions

(CT:FIN-375; 09-13-2005)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

Accountable Officer is a U.S. Government official or employee who, on behalf of the United States, receives and maintains public funds, certifies vouchers, or maintains or draws checks upon accounts of the United States, including those in depository banks designated by the Secretary of the Treasury. Cashiers, subcashiers, U.S. disbursing officers, and occasional moneyholders are accountable officers.

Fiscal Irregularity is an occurrence in which there is:

- (1) A shortage or overage of public funds;
- (2) Illegal disbursement(s) resulting from fraud, forgery, alteration of vouchers, improper certification, or other improper practices;
- (3) Improper accounting for receipts; or
- (4) Improper accounting for imprest funds.

4 FAM 372 INVESTIGATIONS

4 FAM 372.1 Scope

(CT:FIN-375; 09-13-2005)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

- a. Investigations are made in instances of fiscal irregularities that are defined in 4 FAM 371.3.

- b. Fiscal irregularities include those disclosed by examining disbursement and collection transactions; any custodial responsibility (such as cash counts); or any other internal reviews or Office of Inspector General reviews, including audits, inspections, and investigations conducted as part of the normal course of business.

4 FAM 372.2 Responsibilities

4 FAM 372.2-1 Department Offices

(CT:FIN-375; 09-13-2005)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

The head of each Department bureau and independent office is responsible for the initial investigation within the organization for any fiscal irregularity as described in 4 FAM 371.3 and for reporting the results of the investigation to RM/FPRA/FPMC.

4 FAM 372.2-2 Posts

(CT:FIN-375; 09-13-2005)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

The principal officer is initially responsible for investigating and reporting any fiscal irregularity at the post as described in 4 FAM 371.3. He or she sends reports to RM/FPRA/FPMC with a copy to the servicing USDO as discussed in 4 FAM 374. For overseas fiscal irregularities that do not exceed \$500, the principal officer has the authority to grant relief to the accountable officer. For cases resolved by post, the principal officer reports the results of the investigation to RM/FPRA/FPMC but does not present the case to the Committee of Inquiry into Fiscal Irregularities for review.

4 FAM 372.2-3 Inspector General

(CT:FIN-375; 09-13-2005)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

- a. Under section 209 of the Foreign Service Act of 1980 (22 U.S.C. 3929) and the Inspector General Act of 1978, the Inspector General of the Department of State is responsible for conducting and directing investigations of all complaints, allegations, or other information relating

to the possible existence of an activity constituting a violation of laws or regulations; constituting mismanagement, gross waste of funds, or abuse of authority; or constituting a substantial and specific danger to public health or safety (including fraud or malfeasance) throughout the Department and the Foreign Service. Consequently, when any initial inquiry into a fiscal irregularity discloses possible fraud or malfeasance, the post or domestic office will suspend its inquiry and report expeditiously to the Office of Inspector General (OIG).

- b. See 2 FAM 035 regarding reporting information to OIG.

4 FAM 373 COMMITTEE OF INQUIRY

4 FAM 373.1 Scope of Authority

(CT:FIN-375; 09-13-2005)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

- a. There is within the Department a Committee of Inquiry into Fiscal Irregularities. The Committee makes decisions concerning fiscal irregularities and also functions as a reviewing and coordinating body to ensure compliance with the Department's policy stated in 4 FAM 370.
- b. The Committee ensures that reported cases of fraud or malfeasance involving fiscal irregularities have been referred to OIG for investigation by the appropriate office.
- c. The Committee primarily concerns itself with determining the fiscal liability of accountable officers. The Committee should refer matters involving disciplinary or prosecution action to the appropriate Department bureau or office.

4 FAM 373.2 Establishment and Membership

(CT:FIN-375; 09-13-2005)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

- a. The Committee has a standing membership of one representative from the Bureau of Human Resources; one representative from the Office of the Assistant Legal Advisor for Legislation and General Management (L/LM); and one representative from the Office of the Deputy Chief Financial Officer (RM/DCFO). The RM/DCFO representative serves as

permanent chairperson of the Committee.

- b. A member of the Committee must not take part in the consideration of any matter in which:
- (1) The member has a personal financial interest;
 - (2) The accountability or responsibility of a person directly supervised by the member is at issue;
 - (3) The accountability or responsibility of a supervisor of the member is at issue; or
 - (4) His or her impartiality might otherwise reasonably be questioned. In such case, the head of the bureau or office represented by the recused member designates a substitute member. If, for the same reasons, such bureau or office head should not designate a substitute member; the designation is made by the next higher official who is not so disqualified.

4 FAM 374 REPORTS OF INVESTIGATION

(CT:FIN-375; 09-13-2005)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

- a. As soon as it is determined that the probability of an irregularity exists, the principal officer of an embassy or head of a Department bureau or independent office, as appropriate, advises the Department, Attention: Director, Office of Financial Policy and Management Control (RM/FPRA/FPMC), with a copy to the servicing USDO by unclassified cable or memorandum (unless circumstances warrant a higher classification). The communication should be under the subject: INVESTIGATION OF FISCAL IRREGULARITY and provide all facts available and applicable recommendations (see paragraph e). If all facts are not then available, the report should so indicate and state when a final report will be forwarded. OIG should be an action addressee (see 2 FAM 035.3 for reporting to the Inspector General).
- b. In case of a loss in the accounts of an accountable officer, the Office of the Deputy Assistant Secretary for Global Financial Services (RM/GFS) will notify the Department of Treasury. The Department of Treasury will be responsible to notify the Government Accountability Office (GAO) in accordance with 31 U.S.C. 3526.

- c. At a subordinate consular post, the principal officer prepares a report to the embassy and sends a copy to RM and OIG, as described in paragraph a. The embassy is responsible for investigating the consular post's report and submitting to RM and OIG either support of the original report or a separate report of its findings and recommendations.
- d. The principal officer should consider whether the circumstances justify assigning the offending employee other duties pending completion of investigation or final decision by RM and/or OIG.
- e. Final reports on investigation of all irregularities should include the following information:
 - (1) A detailed statement of facts that includes the type of irregularity, date, amount, and name and position of individuals involved and their supervisor;
 - (2) A citation of pertinent supporting documents, such as receipts, pay records, contracts, vouchers, etc;
 - (3) A description of how the irregularity occurred and how it affected the accountable officer's account;
 - (4) Significant information on procedural deficiencies, if known, and the corrective action taken, or to be taken;
 - (5) Information as to the restitution obtained or contemplated from the responsible individual(s); and
 - (6) If complete restitution at the post or office level is unobtainable, make a suitable recommended settlement or resolution of the irregularity appropriate to the circumstances. If the evidence is that the irregularity did not occur by reason of willful intent to defraud the Government or fault or negligence on the part of the accountable officer or supervisory personnel, consideration should be given to a recommendation to resolve the irregularity by granting relief. Such recommendation should bear the signature of the principal officer, or head of a Department bureau or independent office. The recommendation must state that the irregularity did not occur by reason of willful intent to defraud the U.S. Government, or because of fault or negligence on the part of the accountable officer or supervisory personnel.

4 FAM 375 COMMITTEE PROCEDURES

4 FAM 375.1 Responsibilities

(CT:FIN-375; 09-13-2005)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

- a. The chairperson of the Committee of Inquiry into Fiscal Irregularities (see 4 FAM 373.2 paragraph a) is responsible for:
 - (1) Calling all meetings of the Committee;
 - (2) Presiding over the Committee sessions; and
 - (3) Designating one employee from the financial policy staff to provide administrative support.
- b. The administrative staff member is responsible for:
 - (1) Advising members of the time, place, and agenda for all meetings;
 - (2) Preparing and distributing to members written summaries of the meetings, including Committee decisions and actions; and
 - (3) Maintaining case files on cases before the Committee.
- c. The Committee members are responsible for:
 - (1) Reviewing and discussing the facts of the cases presented;
 - (2) Determining if the accountable officer is liable; and
 - (3) Determining whether relief should be granted or recommended in accordance with the procedures listed in 4 FAM 375.3 and record those decisions in writing.

4 FAM 375.2 Review

(CT:FIN-375; 09-13-2005)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

The committee reviews all reports of fiscal irregularities to determine the following:

- (1) The reported or suspected irregularity is within the scope of

investigation defined in 4 FAM 371.3. If the Committee finds the case to be outside the defined scope of investigation, it advises the head of each Department bureau and independent office, and the Committee takes no further action; and

- (2) The investigation is adequate or the Committee requests further investigation as it deems necessary. If further investigation is warranted, the Committee will notify the post or office as appropriate for the additional information required.

4 FAM 375.3 Committee Determinations

(CT:FIN-375; 09-13-2005)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

The Committee evaluates cases meeting the criteria in 4 FAM 371.3 and the following determinations:

- (1) If the Committee does not concur, in whole or in part, with the findings and recommendations of the head of the responsible office, it makes its own findings and determinations based on the facts developed in the investigation.
- (2) The Committee's determinations result in the next action taken to resolve the fiscal irregularity. Determinations and corresponding actions are based on the guidelines set forth in 31 U.S.C. sections 3527 and 3528 and include the following.
 - (a) The determination that the irregularity did not occur by reason of willful intent to defraud the Government or fault or negligence on the part of the accountable officer or supervisory personnel. The Committee can resolve the case administratively (i.e., grant relief), where there is a physical loss or deficiency of less than \$3,000. In other cases, the Committee may decide to seek relief from the Comptroller General.
 - (b) The determination that the irregularity did occur because of fault and/or negligence on the part of the accountable officer or supervisory personnel. The Committee will direct the appropriate Department office or post to initiate collection action and, if the Committee so determines, refer this matter to the Bureau of Human Resources for disciplinary action.
 - (c) The indication that the irregularity did occur because of fraud,

malfeasance, or other possible criminal activity. In this case the Committee will refer the case to the Office of Inspector General and take no further action until the Office of Inspector General notifies the Committee of the result of the investigation.

- (3) The Committee will make the determinations described in 4 FAM 375.3 (2) regardless of whether the fiscal irregularity is a cashier loss or improper payment.

4 FAM 375.4 Administrative Support

(CT:FIN-375; 09-13-2005)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

The offices represented on the Committee may provide or make available staff to enable the Committee to complete its assignments promptly and efficiently.

4 FAM 375.5 Post Committee Determinations

(CT:FIN-375; 09-13-2005)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

- a. After the Committee has determined to either grant relief or hold the accountable officer responsible for the fiscal irregularity, RM/FPRA/FPMC will send a cable or memorandum with a copy to the servicing USDO to notify the post or bureau of the Committee's determination. The information contained in the cable will be the Committee's determination and actions that post will take (4 FAM 375.3).
- b. The post or bureau, if the accountable officer was not relieved, must designate a point of contact at the post or bureau for the fiscal irregularity case. This person is responsible for communicating with the accountable officer, the disbursing officer, the Office of Disbursing Oversight (RM/GFS/S/ODO), and the staff person in RM/FPRA/FPMC assigned to the Committee of Inquiry into Fiscal Irregularities. (See 4 FAH-2 H-830 for additional guidance concerning quarterly status reports to RM/FPRA/FPMC and repayment of losses.) The person designated at post or bureau must officially notify the accountable officer responsible for the fiscal irregularity of the Committee's decision within 15 days of the date of the cable or memorandum from RM/FPRA/FPMC.

- c. Should the accountable officer desire to have the Committee reconsider the determination, he or she may request the facts used by the Committee concerning the fiscal irregularity case through the point of contact designated at the post or bureau. The post or bureau will request the information from RM/FPRA/FPMC in written communication (e-mail or cable or memo). The accountable officer will have 30 days from receipt of the facts from the post or bureau to prepare documentation that presents facts not contained in the fiscal irregularity case. The accountable officer must send documentation for reconsideration to the point of contact at the post or bureau. The post or bureau will forward the documentation to RM/FPRA/FPMC for reconsideration by the Committee. The Committee will reconsider the case only if there is new information presented that may affect the original determination. The Committee's decision will be communicated via official message channel to the post or bureau contact person who will inform the accountable officer.

4 FAM 376 THROUGH 379 UNASSIGNED